

State of Hawaii
Department of Land and Natural Resources
Division of Conservation and Resources Enforcement
Honolulu, Hawaii

May 11, 2007

Board of Land and
Natural Resources
Honolulu, Hawaii

RE: Request Board Approval to Enter Into a Memorandum of Agreement between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement, and the Department of Justice, Drug Enforcement Administration

The purpose of this agreement is to provide additional funding to DLNR to defray costs associated with the Domestic Cannabis Eradication Task Force and strategy planning activities. These eradication efforts are designed to reduce marijuana cultivation in pristine natural habitats and on other land under the jurisdiction of DLNR. Monies received will pay for helicopters, equipment, overtime, training, meals and other related expenses.

RECOMMENDATION:

The Division of Conservation and Resources Enforcement recommends approval of this Agreement and asks that the Chairperson be authorized to sign the agreement provided that the Attorney General's Office first approve the content of the agreement or make substantive changes to the agreement in order to meet all State requirements.

Respectfully submitted,



GARY D. MONIZ
Enforcement Chief

APPROVED FOR SUBMITTAL:



Chairperson
Board of Land & Natural Resources



U. S. Department of Justice
Drug Enforcement Administration

Agreement Number: 2007-62

AGREEMENT

This agreement is entered between the **DEPARTMENT OF LAND & NATURAL RESOURCES (DLNR)** hereinafter referred to as **DLNR** and the **DRUG ENFORCEMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE**, hereinafter referred to as **DEA**, with a reference to the following:

There is evidence that trafficking in controlled substances exists and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of the State of **HAWAII**. The parties hereto agree that it is to their mutual benefit to cooperate in locating and eradicating illicit cannabis plants and in the investigation and prosecution of cases before the courts of the United States and the courts of the State of **HAWAII** involving controlled substances. The DEA, pursuant to the authority of 21 USC 873, proposes to provide certain necessary funds and **DLNR** is desirous of securing funds.

NOW, therefore, in consideration of the mutual covenants hereinafter contained, the parties hereto have agreed as follows:

1. **DLNR**, will, with its own law enforcement personnel and employees, as hereinafter perform specified, performed the activities and duties described below:
 - a. Gather and report intelligence data relating to the illicit possession and distribution of marijuana.
 - b. Investigate and report instances involving the trafficking in controlled substances.
 - c. Provide staffing of law enforcement personnel for the eradication of illicit marijuana located within the State of **HAWAII**.
 - d. Arrest and bring to prosecution defendants charged with violation of the controlled substance laws.
 - e. Send required samples of eradicated marijuana to the NIDA marijuana Potency Monitoring Program.

It is understood and agreed by the parties to this agreement that the activities described in Sub-paragraphs a, b, c, d, and e above shall be provided with the existing personnel and that the scope of **DLNR** program with respect to those activities by such personnel, shall

be solely at **DLNR** discretion, subject to appropriate limitations contained in the budget adopted by **DLNR**.

2. DEA will pay to **DLNR** the amount of **SIX HUNDRED THOUSAND DOLLARS (\$600,000.00)** for the period of JANUARY 1, 2007 TO DECEMBER 31, 2007 to defray the cost relating to the eradication and suppression of illicit marijuana. It is explicitly understood and agreed that Federal funds provided to **DLNR** under this agreement may be used to defray costs relating to herbicidal eradication of marijuana which was described in DEA-EA-1990-1 and as to which DEA has issued a Finding of No Environmental Impact (FONSI). Federal funds provided to the **DLNR** under this agreement may not be used to fund any other herbicide eradication program without advance written consent of DEA.

The Federal funds provided to **DLNR** are primarily intended for payment of deputies'/officers' overtime, and salary and overtime of reserve officers while they are actively engaged in the cannabis eradication process, as well as per diem as appropriate and other direct costs related to the actual conduct of cannabis eradication, such as rental of equipment and vehicles, fuel for vehicles and aircraft, and minor repairs and maintenance necessitated by their use to support cannabis eradication. These Federal funds are not primarily intended for purchase of equipment. Unless specifically itemized and approved in advance in the operational plan, expenditures for expendable and non-expendable equipment should not normally exceed 10% of the total Federal funds awarded. All purchases of property having a useful life of one year or more with an acquisition cost of \$300.00 or more per unit or an aggregate cost of \$1,000.00 or more require the advance approval of the Domestic Cannabis Eradication/Suppression Program (DCE/SP) coordinator, unless specifically approved in the operational plan.

If DEA approves the purchase of non-expendable equipment with an acquisition cost of \$5,000.00 or more per unit for the use of **DLNR** personnel engaged in cannabis eradication under this Agreement, DEA may elect to claim ownership of the equipment at the termination of this Agreement. DEA may also, at its discretion, allow **DLNR** to retain ownership of the equipment for its future use in accordance with applicable Federal rules and regulations.

Payment by DEA to **DLNR** will be in accordance with a schedule determined by DEA and said payment will be made pursuant to the execution by **DLNR** of a Standard Form SF-270, Request for Advance or Reimbursement, and receipt of same by DEA. However, no funds will be paid by DEA to a state/county agency under this Agreement until DEA has received to its satisfaction an accounting of the expenditures of all funds paid to this state/county agency during the periods of previous Agreements for this same purpose. These expenditures will be reported on a Standard Form SF-269, Financial Status Report, and December Monthly Accounting Form.

3. Employees of **DLNR** shall at no time be considered employees of the United States Government or the DEA for any purpose, nor will this Agreement establish an agency relationship between **DLNR** and the DEA.

4. **DLNR** shall maintain complete and accurate reports, records and accounts of all obligations and expenditures of DEA funds under this Agreement in accordance with generally accepted accounting principle and in accordance with state laws and procedures for expending and accounting for its own

funds. **DLNR** shall further maintain its records of all obligations and expenditures of DEA funds under this Agreement in accordance with all instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.

5. **DLNR** shall permit and have available for examination and auditing by DEA, the United States, Department of Justice or the Comptroller General of the United States, or any of their duly authorized agents and representatives, any and all investigative reports, records, documents, accounts, invoices, receipts or expenditures relating to this Agreement. In addition, **DLNR** will maintain all such foregoing reports and records until all audits and examinations are completed and resolved, or for a period of three (3) years after termination of this Agreement, whichever sooner.
6. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." In conjunction with the beginning date of the award, the audit report period of the state or local government entity to be audited under the single audit requirement is (01/2007) to (12/2007). The audit report must be submitted no later than (01/2009) and each audit cycle thereafter covering the entire award period as originally approved or amended. The management letter must be submitted with the audit report. Subsequent audits must be submitted no later than thirteen (13) months after the close of the recipient organization's audited fiscal year. The submission of the audit report shall be as follows:

When the Department of Justice (DOJ) is the cognizant agency, an original and one copy of the audit report shall be sent to:

DOJ Regional Inspector General for Audit
San Francisco Regional Audit Manager
1200 Bayhill Drive, Suite 201
San Bruno, CA 94066
(415) 876-9220

A copy of your audit transmittal letter addressed to the Regional Inspector General, shall be sent to:

Audit Services
Office of the Controller
Office of Justice Programs
810 7th Street, N.W., Room 5303
Washington, D.C. 20531

When DOJ is not the cognizant agency, an original and one copy of the audit report shall be sent to the cognizant agency:

Also, a copy of the audit report shall be sent:

DOJ Regional Inspector General for Audit
San Francisco Regional Audit Manager
1200 Bayhill Drive, Suite 201
San Bruno, CA 94066
(415) 876-9220

A copy of your audit transmittal letter addressed to the Regional Inspector General, shall be sent to:

Audit Services
Office of the Controller
Office of Justice Programs
810 7th Street, N.W., Room 5303
Washington, D.C. 20531

The recipient agrees to submit their corrective action plan with the audit report to the DOJ Regional Inspector General for Audit, when there are findings/recommendations disclosed in the audit report. The corrective action plan should include: (1) specific steps taken to comply with the recommendations; (2) timetable for performance and/or implementation date for each recommendation; and (3) description of monitoring to be conducted to ensure implementation.

A Department of Justice Order requires the Office of Justice Programs (OJP) to maintain a data base of all grants made by DOJ components (DOJ Order 2900.8A (June 20, 1990) copy attached). To implement this requirement, OJP requires all DOJ components to submit to it a completed form, "Grantee Information for Access, a copy of which is attached, for completion by the recipient.

The recipient acknowledges that failure to furnish an acceptable audit as determined by the cognizant Federal agency may be a basis for denial of future Federal funds and/or refunding of Federal funds and may be a basis for limiting the recipient to payment by reimbursement on a case basis.

7. Executive Order 12549

The participant agrees that an authorized officer or employee will execute and return to the DEA Investigative Support Section (OMS), 2401 Jefferson Davis Highway, Alexandria, Virginia 22301, the attached OJP Form 4061/6, "Certification Regarding Lobbying; Debarment, Suspension, and other Responsibility Matters; and Drug Free Workplace Requirements." The participant acknowledges that this agreement will not take effect and that no Federal funds will be awarded by DEA until the completed certification is received.

8. Disclosure of Federal Participation

In compliance with Section 623 of Public Law 102-141, the recipient agrees that no amount of this Award shall be used to finance the acquisition of goods or services (including construction services)

for the Project unless the recipient:

- (a) Specifies in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and
- (b) Expresses the amount announced pursuant to paragraph (a) as a percentage of the total cost of the planned acquisition.

The above requirements only apply to procurements for goods or services (including construction services) that have an aggregate value of \$500,000 or more.

9. It is further covenant and agreed that **DLNR** will hold the DEA, its agents and employees and the United States Government harmless from any and all claims, demands, suits, liabilities and cases of action, of whatever kind and designation, and wherever located in the State of **HAWAII**, resulting from the DCE/SP funded by DEA. The DEA acknowledges that the United States is liable for the wrongful or negligent acts or omissions of its officers and employees while on duty and acting within the scope of their employment to the extent permitted by the Federal Tort Claims Act, 28 USC Sections 1346(b), 2671, et seq.

10. **DLNR** shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act (as incorporated in the Civil Rights Act of 1991) and all requirements imposed or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, D, and F.

11. Within sixty (60) days after termination of the Agreement, **DLNR** will prepare a December Monthly Accounting Form and a SF-269, Financial Status Report, itemizing the breakdown of final expenditures. The December Accounting form and the SF-269, along with a refund check, payable to DEA for any unexpended funds which were advanced by DEA, pursuant to this Agreement will be returned to DEA.

12. Upon submission of the SF-269 and December Accounting Form to the Investigative Support Section (OMS) for the preceding year, a copy of the general ledger and the underlying supporting documentation reflecting the expenditures for equipment in excess of \$5,000 and the expenses associated with the rental or leasing of vehicles or aircraft must be attached.

13. The duration of this Agreement shall be as specified in Paragraph 2. The terms of this Agreement may be terminated by either party for good cause shown by notice in writing given to the other party thirty (30) days prior thereof. All obligations that are outstanding on the above prescribed termination date or on the date of any thirty (30) day notice of termination shall be liquidated by **DLNR** within sixty (60) days thereof, in which event DEA will only be liable for obligations incurred by **DLNR** during the terms of this Agreement. In no event shall **DLNR** incur any new obligations during the period of notice of termination. **DLNR** shall return to DEA all unexpended funds forthwith after the sixty (60) days liquidated period.

THE DEPARTMENT OF LAND
& NATURAL RESOURCES

By: _____

Title: _____

Date: _____

Approved as to Form:

Deputy Attorney General

Date: _____

DRUG ENFORCEMENT ADMINISTRATION

By: _____

Special Agent in Charge
Los Angeles Field Division

Date: _____

DEA DIVISIONAL FISCAL CLERK MUST INPUT INTO FFS

ACCOUNTING CLASSIFICATION/OBLIGATION NO.; SDCER-11 ACCOUNT:
07A- _____

FFS INPUT DATE: _____, BY: _____

TO BE FILLED OUT BY HEADQUARTERS:

APPROVAL FOR PAYMENT

This is to verify that all of the administrative determinations have been made, that the payment is legal, proper, correct and approved for payment.

Amount:	<u>\$600,000.00</u>
Obligation Doc No.	<u>See Above</u>
Line No.	_____
Signature	_____
Printed Name/Title	<u>Philip A. Jessar -- Chief, Investigative Support Section</u>
Date Approved	_____

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

OMB APPROVAL NO.

0348-004

PAGE 1 OF 2 PAGES

1. TYPE OF PAYMENT REQUESTED	a. "X" one or both boxes			
	<table border="1"> <tr> <td>ADVANCE</td> <td>REIMBURSEMENT</td> </tr> <tr> <td>FINAL</td> <td>PARTIAL</td> </tr> </table>	ADVANCE	REIMBURSEMENT	FINAL
ADVANCE	REIMBURSEMENT			
FINAL	PARTIAL			

2. BASIS OF REQUEST

CASH

ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED
DRUG ENFORCEMENT ADMINISTRATION

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

2007-62

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6. EMPLOYER IDENTIFICATION NUMBER

99-0266-119

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

N/A

8. PERIOD COVERED BY THIS REQUEST

FROM (month, day, year)

JANUARY 1, 2007

TO (month, day, year)

DECEMBER 31, 2007

9. RECIPIENT ORGANIZATION

Name:

Number and Street:

N/A

City, State and ZIP Code:

Name:

DEPARTMENT OF LAND & NATURAL RESOURCES

Number and Street:

C/O DEA
300 ALA MOANA BLVD., ROOM 3129
HONOLULU, HAWAII

City, State and ZIP Code:

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES	(a) Original Letter of Agreement	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)	\$ 600,000.00	\$	\$	\$ 600,000.00
b. Less: Cumulative program income				0.00
c. Net program outlays (Line a minus line b)	600,000.00	0.00	0.00	600,000.00
d. Estimated net cash outlays for advance period				0.00
e. Total (Sum of lines c & d)	600,000.00	0.00	0.00	600,000.00
f. Non-Federal share of amount on line e				0.00
g. Federal share of amount on line e	600,000.00			600,000.00
h. Federal payments previously requested				0.00
i. Federal share now requested (Line g minus line h)	600,000.00	0.00	0.00	600,000.00
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances				
1st month	600,000.00			600,000.00
2nd month				0.00
3rd month				0.00

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	\$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	\$ 0.00

AUTHORIZED FOR LOCAL REPRODUCTION

(Continued on Reverse)

STANDARD FORM 270 (Rev. 7-97)
Prescribed by OMB Circulars A-102 and A-110

CERTIFICATION

I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OR AUTHORIZED CERTIFYING OFFICIAL

DATE REQUEST
SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (AREA CODE,
NUMBER AND EXTENSION)

This space for agency use

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

- | Item | Entry |
|------|--|
| 2 | Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis. |
| 4 | Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement. |
| 6 | Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency. |
| 7 | This space is reserved for an account number or other identifying number that may be assigned by the recipient. |
| 8 | Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested. |

Note: The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.

- 11 The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or

- | Item | Entry |
|------|---|
| | activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. |
| 11a | Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees. |
| 11b | Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement. |
| 11d | Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance. |
| 13 | Complete the certification before submitting this request. |



Memorandum



Subject

Electronic Funds Transfer
(DFN: 610-13)

Date

MAR 14 2007

To

All Domestic Cannabis Eradication/Suppression
Program Coordinators & Participating Agencies

From

Philip A. Jessar
Chief

Investigative Support Section

Funding for the Domestic Cannabis Eradication/Suppression Program (DCE/SP) is only available by electronic transfer. Funds will be transferred directly into the Letter of Agreement (LOA) agency bank account. In order to process electronic transfers the following information must be provided below:

Agency Name on Bank Account: _____

Account Number: _____

Name of Bank/Financial Institution: _____

Address of Bank/Financial Institution: _____

Telephone Number of Bank/Financial Institution: _____

Contact Person of Bank/Financial Institution: _____

Bank/Financial Institution ABA Number: _____

Authorized Agency Representative – Name & Title

Signature of Authorized Agency Representative

Date

(This original form and original Letter of Agreement Package must be returned to the Investigative Support Section. Please retain a copy for your records.)

Memorandum



Subject

Grantee Information for ACCESS

Date

MAR 14 2007

To

Audit Services

From

Drug Enforcement Administration
Investigative Support Section

1. GRANTEE:

2. GRANTEE ADDRESS:

3. GRANT/LOA NO.:

4. GRANT PERIOD:

5. AUDIT REPORT PERIOD:

6. COGNIZANT AGENCY:

7. RECIPIENT TYPE:

(Code)

AGENCY LEVEL:

(Code)

Recipient Type and Agency Level Codes:

01 – Law Enforcement

02 – State

03 – County

04 - City

8. REASON OR MEMO: (Check as many of the following as apply)

a. New Grantee:

[]

e. Change in Audit Report Period:

[]

b. New Award:

[]

f. Change in Cognizant Agency:

[]

c. Change in Grantee Address:

[]

g. Other: _____

[]

d. Change in Audit Report Period:

[]

(Specify)

NOTE: If submission is for a CHANGE ONLY (8c – 8g) to information previously submitted to Audit Services, you will only need to complete Item 1 in Items 1-6 in addition to your change information.

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, country, state, zip code)

Check ☐ if there are workplace on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in connection with any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date